

.....  
(Original Signature of Member)

113TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To require the Commodity Futures Trading Commission to impose fees and assessments to recover the cost of appropriations to the Commission.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Ms. DELAURO introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To require the Commodity Futures Trading Commission to impose fees and assessments to recover the cost of appropriations to the Commission.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wall Street Account-  
5       ability through Sustainable Funding Act”.

1 **SEC. 2. REQUIREMENT THAT THE COMMODITY FUTURES**  
2 **TRADING COMMISSION IMPOSE FEES AND AS-**  
3 **SESSMENTS TO RECOVER THE COST OF AP-**  
4 **PROPRIATIONS TO THE COMMISSION.**

5 Section 12 of the Commodity Exchange Act (7 U.S.C.  
6 16) is amended by adding at the end the following:

7 “(i) RECOVERY OF COSTS OF ANNUAL APPROPRIA-  
8 TIONS.—

9 “(1) IMPOSITION OF FEES.—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (C), the Commission shall, by  
12 order, impose a fee on each agreement, con-  
13 tract, or transaction that is a contract of sale  
14 of a commodity for future delivery, an option,  
15 or a swap, including an agreement, contract, or  
16 transaction transacted through the use of a for-  
17 eign terminal, so that the total of the fees so  
18 imposed during each fiscal year is sufficient to  
19 recover the costs to the Government of the an-  
20 nual appropriation to the Commission by Con-  
21 gress for the fiscal year.

22 “(B) FOREIGN TERMINAL.—In subpara-  
23 graph (A), the term ‘foreign terminal’ means a  
24 technology, software, or device, which is located  
25 in the United States and used to execute an  
26 agreement, contract, or transaction on a foreign

1 board of trade, or which is located outside of  
2 the United States and used to execute an agree-  
3 ment, contract, or transaction within the  
4 United States on a domestic board of trade.

5 “(C) EXEMPTIONS.—The Commission, by  
6 rule, may exempt any such agreement, contract,  
7 or transaction from any fee imposed under this  
8 paragraph, if the Commission finds that the ex-  
9 emption is consistent with—

10 “(i) the public interest;

11 “(ii) the equal treatment of contract  
12 markets, derivatives clearing organizations,  
13 and market participants; and

14 “(iii) the operation of a nationwide  
15 market system.

16 “(D) LIMITATION.—The fees imposed  
17 under this paragraph on all transactions of the  
18 same kind shall be determined in a uniform  
19 manner.

20 “(E) MID-YEAR ADJUSTMENT.—

21 “(i) IN GENERAL.—By March 1 of  
22 each fiscal year, the Commission shall de-  
23 termine whether, based on the fees col-  
24 lected under this subsection during the  
25 first 5 months of the fiscal year, the total

1 of the amounts collected and to be col-  
2 lected under this subsection for the fiscal  
3 year is reasonably likely to be 10 percent  
4 (or more) greater or less than the costs de-  
5 scribed in subparagraph (A) for the fiscal  
6 year. If the Commission so determines, the  
7 Commission shall by order, no later than  
8 March 1 of the fiscal year, adjust the fee  
9 rates otherwise applicable under this para-  
10 graph for the fiscal year so that the total  
11 of the amounts so collected and to be col-  
12 lected is reasonably likely to equal to the  
13 costs so described.

14 “(ii) EFFECTIVE DATE.—Subject to  
15 paragraphs (2)(C) and (4), an adjusted  
16 rate prescribed under clause (i) of this sub-  
17 paragraph in a fiscal year shall take effect  
18 on the later of—

19 “(I) the 1st day of the fiscal year  
20 to which the rate applies; or

21 “(II) 60 days after the date on  
22 which a regular appropriation to the  
23 Commission for the fiscal year is en-  
24 acted.

1           “(F) PUBLICATION.—The Commission  
2           shall publish in the Federal Register notices of  
3           the fee rates applicable under this paragraph  
4           for a fiscal year not later than 30 days after  
5           the date on which a regular appropriation to  
6           the Commission for the fiscal year is enacted,  
7           together with any estimates or projections on  
8           which the fee rates are based.

9           “(G) INAPPLICABILITY OF RULE MAKING  
10          REQUIREMENTS.—In exercising its authority  
11          under this paragraph, the Commission shall not  
12          be required to comply with section 553 of title  
13          5, United States Code.

14          “(H) NO JUDICIAL REVIEW.—A fee rate  
15          prescribed under this paragraph and published  
16          in accordance with subparagraph (F) shall not  
17          be subject to judicial review.

18          “(2) PAYMENT AND COLLECTION OF FEES.—

19                 “(A) CLEARED TRANSACTIONS;  
20                 UNCLEARED SWAPS REPORTED TO SWAP DATA  
21                 REPOSITORIES.—

22                 “(i) PAYMENT OF FEES.—

23                         “(I) CLEARED TRANSACTIONS.—

24                         In the case of a contract of sale of a  
25                         commodity for future delivery, an op-

1           tion, or a swap that is cleared by a  
2           derivatives clearing organization reg-  
3           istered or exempt from registration  
4           under this Act, each party to the  
5           agreement, contract, or transaction  
6           shall pay the fee determined under  
7           paragraph (1) to the derivatives clear-  
8           ing organization.

9                   “(II) UNCLEARED SWAPS RE-  
10           REPORTED TO SWAP DATA REPOSI-  
11           TORIES.—In the case of a swap that  
12           is not cleared by a derivatives clearing  
13           organization registered or exempt  
14           from registration under this Act and  
15           that is accepted by a swap data repos-  
16           itory registered under section 21, each  
17           party to the swap shall pay the trans-  
18           action fee determined under para-  
19           graph (1) to the swap data repository.

20                   “(ii) COLLECTION OF FEES.—The  
21           Commission shall collect the fees paid in  
22           accordance with clause (i) in such manner  
23           and within such time as the Commission  
24           deems appropriate, except that if the Com-  
25           mission has not collected a fee paid in ac-

1 cordance with clause (i) within 30 days  
2 after receipt by the derivatives clearing or-  
3 ganization or swap data repository, as the  
4 case may be, the organization or reposi-  
5 tory, as the case may be, shall transmit the  
6 fee to the Commission.

7 “(B) UNCLEARED SWAPS REPORTED TO  
8 COMMISSION.—In the case of a swap that is not  
9 cleared by a derivatives clearing organization  
10 registered or exempt from registration under  
11 this Act and that is reported to the Commission  
12 pursuant to section 4r, each party to the swap  
13 shall pay the fee determined under paragraph  
14 (1) to the Commission in a manner and within  
15 such time as the Commission deems appro-  
16 priate.

17 “(C) SUBJECT TO APPROPRIATIONS.—Ex-  
18 cept as provided in paragraph (4), a fee shall  
19 not be collected under this subsection for a fis-  
20 cal year, except to the extent provided in ad-  
21 vance in appropriation Acts.

22 “(3) DEPOSIT OF FEES.—

23 “(A) OFFSETTING COLLECTIONS.—A fee  
24 collected under paragraph (2) for a fiscal year  
25 shall be deposited and credited as offsetting col-

1           lections to the account providing appropriations  
2           to the Commission.

3           “(B) GENERAL REVENUES PROHIBITED.—  
4           A fee collected under paragraph (2) for a fiscal  
5           year shall not be deposited and credited as gen-  
6           eral revenue of the Treasury.

7           “(4) LAPSE OF APPROPRIATION.—If on the  
8           first day of a fiscal year a regular appropriation to  
9           the Commission has not been enacted, the Commis-  
10          sion shall continue to collect (as offsetting collec-  
11          tions) the fees imposed under paragraph (1) at the  
12          rate in effect during the preceding fiscal year, until  
13          60 days after the date such a regular appropriation  
14          is enacted.

15          “(j) COMMODITY FUTURES TRADING COMMISSION  
16          RESERVE FUND.—

17               “(1) ESTABLISHMENT.—There is established in  
18               the Treasury of the United States a separate fund,  
19               to be known as the ‘Commodity Futures Trading  
20               Commission Reserve Fund’ (referred to in this sub-  
21               section as the ‘Reserve Fund’).

22               “(2) IMPOSITION OF FEES.—The Commission  
23               shall impose and collect an additional fee, as pro-  
24               vided in subsection (i), except that the total amount  
25               of the fees imposed and collected in each fiscal year



1       shall not exceed an amount equal to the amount (if  
2       any) by which \$50,000,000 exceeds the balance in  
3       the Reserve Fund as of the end of the preceding fis-  
4       cal year, and paragraphs (2)(C) and (4) of sub-  
5       section (i) shall not apply with respect to this sub-  
6       section.

7               “(3) DEPOSITS INTO RESERVE FUND.—

8               “(A) IN GENERAL.—Except as provided in  
9       this paragraph, all fees collected under this  
10      paragraph shall be deposited into the Reserve  
11      Fund.

12              “(B) LIMITATION.—The balance in the Re-  
13      serve Fund shall not exceed \$50,000,000.

14              “(4) USE OF FUNDS.—The Commission may  
15      obligate amounts in the Reserve Fund, not to exceed  
16      a total of \$50,000,000 in any 1 fiscal year, as the  
17      Commission determines is necessary to make long-  
18      term investments in information technology for use  
19      by the Commission and to cover unexpected expenses  
20      of the Commission (as determined by the Commis-  
21      sion). Not later than 10 days after the date on  
22      which the Commission obligates amounts under this  
23      paragraph, the Commission shall notify the Congress  
24      of the date, amount, and purpose of the obligation.

1           “(5) AVAILABILITY OF FUNDS.—Amounts in  
2           the Reserve Fund shall remain available until ex-  
3           pended.

4           “(6) RULE OF CONSTRUCTION.—Amounts in  
5           the Reserve Fund shall not be construed to be Gov-  
6           ernment funds or appropriated monies and shall not  
7           be subject to apportionment for the purpose of chap-  
8           ter 15 of title 31, United States Code, or under any  
9           other authority.”.